

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 6, and 11 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

After amending the claims as set forth above, claims 1, 3-6, 8-11, and 13-15 are now pending in this application.

Claims 1-15 were rejected under 35 USC 112, second paragraph, for being indefinite. Amendments have been made to the independent claims to obviate this rejection.

Claim 1-15 were rejected under 35 USC over the three-way combination of Hafner (US 5,893,076), in view of Brown (US 6,901,381) and Huang et al. (US 5,953,707). This rejection is respectfully traversed and reconsideration thereof is requested.

Hafner et al. discloses a replenishment processor for receiving POS data and automatically generating a suggested order to replenish the used inventory, based on the POS data. See column 4, lines 1-55. A forecasting engine 230 may be used to forecast inventory needs based on predicted future sales, i.e., future demand. See column 5, lines 34-46. The forecasting engine creates a prediction of future market demand. The system then couples this with inventory data and generates an order. See column 6, lines 17-32. There is no recognition of the problems arising from the manual production of a good according to a recipe using one or multiple materials, where the recipe is not being followed accurately. This failure to follow a recipe may be due to a number of reasons such as turnover of employees, or a store owner deciding to skimp on some ingredients to temporarily increase his/her profits, which may ultimately have a negative impact on the brand.

Brown discloses an inventory system for dining cars on a train. See the abstract. A portable terminal is used to maintain ongoing track of inventory depletion on the dining car. An inventory adjust module 74 accounts for the depletion of ingredients based on a recipe. See column 11, lines 26-40 and 56-59.

In process step 748, once a sold item is recorded, the ingredients associated with that sold item are deducted from the inventory.

Huang et al. discloses a decision support system for an agile supply chain invented by an electrical appliance manufacturer. Huang teaches the calculation of a variance between normal past sales levels and received POS data. The following quote indicates the focus of the variance calculation “identify those products and customers for which demand patterns are particularly unstable and thus require special attention.” See column 48 of Huang et al.

But applicants claims do not relate to demand or variance in demand. Demand is irrelevant to the claims and the invention. Rather, applicants claims are focused on detecting a failure to follow a recipe for manually constructed goods, i.e., “calculating based on the recipe an amount of the at least one material that should have been used for the amount of the goods sold by the at least one store,” whatever that amount is. Thus, a calculation of a variance in demand suggests nothing in relation to the problem that applicants are solving relating to variance in following a recipe.

None of the references recognize the problem of not following a recipe or provide a solution to this problem. The calculated variance is between an amount of a component material sold to and presumably used by a store in a recipe to make a goods [not the goods sold to customers of the store]. There is no use of a prediction of demand in the process. Demand is not relevant. Applicants’ claimed variance is based on a failure to follow a recipe,

“calculating a variance between the amount of the material sold to the store and the amount of the material that should have been used based on the recipe for amount of the goods sold.”

Accordingly, the claims distinguish over references and anything they suggest.

In view of the foregoing amendments and remarks, reconsideration and allowance of the application is respectfully solicited.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

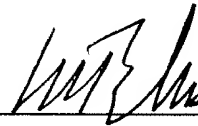
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date August 15, 2008

By _____



FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

William T. Ellis
Attorney for Applicant
Registration No. 26,874